

**IN THE DRAWINGS**

In the Official Action, the drawings were rejected to because of the omission of a reference character. In response to this, Applicant submits herewith an annotated sheet showing changes made.

Attachment: One Replacement Sheet (2/5).

**REMARKS**

In response to the Official Action mailed March 15, 2005, Applicant submits the following amendments and remarks.

A petition for a three-month extension of the shortened statutory time period for response to said Official Action up to and including September 15, 2005, is transmitted herewith.

As an initial matter, the Applicant acknowledges and appreciates that the Examiner has deemed that claims 5 and 6 of the present application, although objected to for depending upon a rejected base claim, contain patentable subject matter.

In the Official Action, the Abstract has been objected to for including phrases which can be implied. In response to this rejection, Applicant has submitted herewith a new Abstract to replace the previous deleted abstract.

In the Official Action, the drawings were also rejected to because of the omission of a reference character. In response to this, Applicant submits herewith an annotated sheet showing changes made.

In the Official Action, claims 1-3, 8, 12 and 13 are rejected under 35 U.S.C. § 103(b) as being anticipated by U.S. Patent No. 3,390,941 to *Weber*. In addition, claims 9-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,328,040 to *Stein*. Further, claims 14-17 are rejected under 35 U.S.C. § 102(a) as being unpatentable over *Weber* in view of U.S. Patent No. 3,592,202 to *Jones*. Applicant has hereby amended independent claim 1 of the present application to thereby render all of the rejections moot.

Claim 1 now includes the additional recitation that was previously included within now cancelled claim 5, which has already been deemed to contain patentable subject matter by the Examiner. Therefore, Applicant asserts that amended claim 1 is

in condition for allowance and should be deemed patentable. In addition, claims 2-4 and 7-17 all depend from claim 1 and should also be deemed patentable.

Applicant has also added independent claim 18 to the present application. Claim 18 includes the recitations previously included within claim 1 and claim 6. As previously stated, the Examiner has deemed that claim 6 contains patentable subject matter. Therefore, claim 18 as well as its dependent claims 19-32, should also be deemed patentable.

Applicant has also added independent claim 33 which includes the recitation wherein the cosmetic product included within the receptacle is a nail varnish remover. This limitation is neither taught nor disclosed by any of the art cited of record. Claim 33 also includes a recitation directed towards the closure cap having an enclosed holder for the applicator element. A recitation similar to this is included within claims 9-11 of the present application. The Examiner cites *Stein* as teaching such a recitation; however, a closer inspection of *Stein* illustrates that *Stein* discloses an end cap 58 designed to enclose a tip storage volume 40. The end cap of *Stein* differs from the present invention in that the end cap derives no other function besides being attached to the inoperable end of the device. Claim 33 includes the recitation wherein the closure cap not only holds the applicator element, but also seals the operable end of the device. In this way, one of the elements of *Stein*, either end cap 50 or front cap 42 is not required.

None of the amendments or additions to the claims have added new matter to the present application.

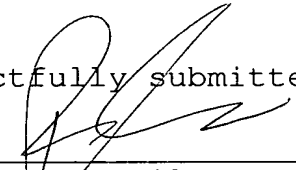
As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: September 15, 2005

Respectfully submitted,

By   
Raymond Garguilo, Jr.  
Registration No.: 50,930  
LERNER, DAVID, LITTENBERG,  
KRUMHOLZ & MENTLIK, LLP  
600 South Avenue West  
Westfield, New Jersey 07090  
(908) 654-5000  
Attorney for Applicant

LD-447\

594779\_1.DOC